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ABSTRACT

The issue of drug testing is the focus of this ERIC Digest. Several aspects of drug testing discussed in question-and-answer format: (1) What is the current status of drug use in the schools? (2) What legal questions arise when schools consider drug testing? (3) How might drug testing be applied in a fair, economical, and legally safe manner? (4) How might drug testing affect student attitudes? and (5) What are some alternatives to drug testing in the schools? Appended are 9 references. (SI)

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DRUG TESTING

By Amy Klauke

The issue of drug testing in schools galvanizes emotions about both civil liberties and moral obligations. Our educational institutions must be committed to respect for student and staff privacy. Yet school administrators are feeling pressure to adopt urgent measures to keep drugs and alcohol from further endangering the physical, emotional, and mental well-being of our youth.

What is the current status of drug use in the schools?

The rate of drug use among teenagers is higher in the United States than in any other industrial society. Sixty-one percent of high school seniors have tried drugs (Lewis 1987), and 20 percent (3.3 million) of 14- to 17-year-olds have serious drinking problems. Drunk driving remains the primary cause of death among teenagers. Schools suffer from the subsequent loss of concentration, determination, and social skills among both students and staff members who are substance abusers.

Many school officials claim that their responsibility "to ensure that employees and students report fit for duty" (Lewis) obligates them to implement severe measures for the detection and punishment of drug users.

What legal questions arise when schools consider drug testing?

Drug testing raises issues that pertain to both the Fourth Amendment, which protects citizens from unreasonable search and seizure (judges have found drug testing to constitute such a search), and the Fourteenth Amendment, which requires that citizens be treated as innocent until proven guilty and be accorded due process of law when accused.

In *Patchogue-Medford Congress of Teachers vs. Union Free School District*, the state appellate panel held that "there must be some degree of suspicion before the dignity and privacy of a teacher may be compromised by forcing the teacher to undergo a urine test." In other words, there must be a "factual basis" for suspecting a particular teacher of using illegal drugs. Paradoxically, such an accumulation of evidence would usually preclude the necessity for testing body fluids. The court did concede that drug testing restrictions may soften in situations where an employee's substance use might endanger the public, a concession that may legitimize screening driver education students, for example.

In *Odenheim v. Carlstadt-East Rutherford*

Regional School District, the court held that drug testing as a part of mandatory physical exams was "an attempt to control student discipline under the guise of medical procedure." Attempts to pretest athletes raise the issue of whether extracurricular activities are rights or privileges.

Because metabolisms differ, and results are influenced by the time and amount of injection, neither a urinalysis nor a breathalyzer test accurately reflects an individual's use of — and certainly not their degree of dependence on — a controlled substance. Consequently, the test itself came under scrutiny in *Jones V. McKenzie*, when a positive urinalysis test was not confirmed by an additional testing method.

In addition, the defendant's rights under the Fourteenth Amendment would require a hearing as well as notice if the employee were deprived of interest in "property" (that is, legitimate expectation of continued employment) or "liberty" (severe stigma to reputation). Similar issues might arise if students are deprived of a legitimate expectation of continued education. The effect of further litigation could mean more legal restrictions on school policy. "If an employee's behavior justifies a drug test, it certainly justifies some other form of discipline or intervention by a supervisor, and that should be your first line of defense," says David Spitt (1987).

How might drug testing be applied in a fair, economical, and legally safe manner?

Although any testing procedure risks charges of defamation, invasion of property, infliction of emotional distress, or wrongful discharge (not to mention the incursion of bills for an average of \$100 per test), several precautions can reduce the dangers for schools determined to test constituents for drug use.

Extensive involvement (including education on the cause and effect of drug and alcohol abuse) by parents, community, school board members, teachers, staff, and students in initial planning of such a drug policy goes a long way toward preventing future court cases. Similarly, voluntary, nondisciplinary procedures should be encouraged, with rules and punitive actions clearly and publicly stated. Advice from a school board's legal counsel is recommended before implementation.

Prescreening and, when evidence warrants, individualized testing by a reliable, independent medical agency remain the least objectionable methods of testing for substance abuse. Positive

results should be proceeded by followup tests, hearings and reviews held within a reasonable timespan, and punitive or rehabilitary measures carefully chosen.

How might drug testing affect student attitudes?

For some students, testing followed by nonpunitive, rehabilitary action may come as a relief, as a stopgap for behavior increasingly out of their control. As Brian Mittman (1987) asserts, "Teenagers who are weak enough to fall victim to drug abuse generally are incapable of dealing with it." Others may appreciate the removal of the temptation to use drugs or alcohol.

On the other hand, most adolescents grow through a period of reshaping identity, experimenting, challenging, and taking risks. Consequently, there is danger to a young person's self-esteem, when what might have been passing curiosity, or mild rebellion, is construed and insinuated to be evidence of a deviance in character. A negative public image can irrevocably depreciate a teenager's self-identity.

As a surveillance imposed from above, drug testing may widen the rift between students and authority figures, engender resentment and suspicion, and foster indignant reaction rather than positive action or intelligent choice.

What are some alternatives to drug testing in the schools?

According to Michael Buscemi (1985), "research has demonstrated repeatedly that short-term programs and those that rely exclusively on information about drugs and alcohol are not effective." Effective policies tend to be both preventative and ameliorative, long-term and comprehensive. They involve curriculum and sometimes organizational changes and are nourished by a broad base of input and support.

Many authorities believe substance abuse is symptomatic of high stress and a dearth of coping skills among youth. Schools might alleviate the motivation for substance abuse by strengthening students' personal skills and peer support systems, providing appealing extracurricular activities, emphasizing health promotion, and encouraging drug-free lifestyles among their staff and student bodies. Adult examples of positive stress manage-

ment and body care can contribute significantly to a student's cultivation of similar life habits.

Testimonies by celebrities that counter the media's glamorization of drugs and alcohol is another important tactic. This, combined with a development of critical thinking skills and regular, probing school discussions of the values presented by popular media can help students make more informed, mature life decisions.

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